

By Senator Legg

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1 A bill to be entitled

2 An act relating to nuclear and integrated gasification
3 combined cycle power plants; amending s. 366.93, F.S.;
4 modifying an alternative cost recovery mechanism for
5 the recovery of costs for the siting, design,
6 licensing, and construction of nuclear and integrated
7 gasification combined cycle power plants; providing
8 that a utility that elects not to complete
9 construction of a nuclear power plant may not recover
10 or retain any rate of return for such costs; making
11 technical changes; providing for future review and
12 repeal; requiring that the Florida Public Service
13 Commission submit a report to the Legislature to be
14 considered in the future review of s. 366.93, F.S.;
15 specifying criteria for such report; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 366.93, Florida Statutes, is amended to
21 read:

22 366.93 Cost recovery for the siting, design, licensing, and
23 construction of nuclear and integrated gasification combined
24 cycle power plants.—

25 (1) As used in this section, the term:

26 (a) "Cost" includes, but is not limited to, all capital
27 investments, including rate of return, any applicable taxes, and
28 all expenses, including operation and maintenance expenses,
29 related to or resulting from the siting, licensing, design,

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30 construction, or operation of the nuclear power plant, including
31 new, expanded, or relocated electrical transmission lines or
32 facilities of any size which ~~that~~ are necessary thereto, or of
33 the integrated gasification combined cycle power plant.

34 (b) "Electric utility" or "utility" has the same meaning as
35 that provided in s. 366.8255(1) (a).

36 (c) "Integrated gasification combined cycle power plant" or
37 "plant" means an electrical power plant as defined in s.
38 403.503(14) which ~~that~~ uses synthesis gas produced by integrated
39 gasification technology.

40 (d) "Nuclear power plant" or "plant" means an electrical
41 power plant as defined in s. 403.503(14) which ~~that~~ uses nuclear
42 materials for fuel.

43 (e) "Power plant" or "plant" means a nuclear power plant or
44 an integrated gasification combined cycle power plant.

45 (f) "Preconstruction" is that period of time after a site,
46 including ~~any~~ related electrical transmission lines or
47 facilities, has been selected through and including the date the
48 utility completes site clearing work. Preconstruction costs must
49 ~~shall~~ be afforded deferred accounting treatment and ~~shall~~ accrue
50 a carrying charge equal to the utility's allowance for funds
51 during construction (AFUDC) rate until recovered in rates.

52 (2) Within 6 months after the enactment of this act, the
53 commission shall establish, by rule, alternative cost recovery
54 mechanisms for the recovery of costs incurred in the siting,
55 design, licensing, and construction of a nuclear power plant,
56 including new, expanded, or relocated electrical transmission
57 lines and facilities that are necessary thereto, or of an
58 integrated gasification combined cycle power plant. Such

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59 mechanisms must ~~shall~~ be designed to promote utility investment
60 in nuclear or integrated gasification combined cycle power
61 plants and allow for the recovery in rates of all prudently
62 incurred costs, including ~~and shall include~~, but not be limited
63 to:

64 (a) Recovery through the capacity cost recovery clause of
65 any preconstruction costs.

66 (b) Recovery through an incremental increase in the
67 utility's capacity cost recovery clause rates of the carrying
68 costs on the utility's projected construction cost balance
69 associated with the nuclear or integrated gasification combined
70 cycle power plant. To encourage investment and provide
71 certainty, ~~for nuclear or integrated gasification combined cycle~~
72 ~~power plant need petitions submitted on or before December 31,~~
73 ~~2010,~~ associated carrying costs must ~~shall~~ be equal to the most
74 recently approved pretax AFUDC at the time an increment of cost
75 recovery is sought ~~in effect upon this act becoming law. For~~
76 ~~nuclear or integrated gasification combined cycle power plants~~
77 ~~for which need petitions are submitted after December 31, 2010,~~
78 ~~the utility's existing pretax AFUDC rate is presumed to be~~
79 ~~appropriate unless determined otherwise by the commission in the~~
80 ~~determination of need for the nuclear or integrated gasification~~
81 ~~combined cycle power plant.~~

82 (3) After a petition for determination of need is granted,
83 a utility may petition the commission for cost recovery as
84 permitted by this section and commission rules.

85 (4) When the nuclear or integrated gasification combined
86 cycle power plant is placed in commercial service, the utility
87 may ~~shall be allowed to~~ increase its base rate charges by the

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88 projected annual revenue requirements of the nuclear or
89 integrated gasification combined cycle power plant based on the
90 jurisdictional annual revenue requirements of the plant for the
91 first 12 months of operation. The rate of return on capital
92 investments is ~~shall be~~ calculated using the utility's rate of
93 return last approved by the commission before ~~prior to~~ the
94 commercial inservice date of the nuclear or integrated
95 gasification combined cycle power plant. If an ~~any~~ existing
96 generating plant is retired as a result of operation of the
97 nuclear or integrated gasification combined cycle power plant,
98 the commission shall allow for the recovery, through an increase
99 in base rate charges, of the net book value of the retired plant
100 over a period not to exceed 5 years.

101 (5) The utility shall report to the commission annually the
102 budgeted and actual costs as compared to the estimated inservice
103 cost of the nuclear or integrated gasification combined cycle
104 power plant provided by the utility pursuant to s. 403.519(4),
105 until the commercial operation of the nuclear or integrated
106 gasification combined cycle power plant. The utility shall
107 provide such information on an annual basis following the final
108 order by the commission approving the determination of need for
109 the nuclear or integrated gasification combined cycle power
110 plant, with the understanding that some costs may be higher than
111 estimated and other costs may be lower.

112 (6) If the utility does ~~elects~~ not to complete ~~or is~~
113 ~~precluded from completing~~ construction of the nuclear power
114 plant, including new, expanded, or relocated electrical
115 transmission lines or facilities necessary thereto, or of the
116 integrated gasification combined cycle power plant, the utility

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117 ~~may shall be allowed to~~ recover all prudent preconstruction and
118 construction costs incurred following the commission's issuance
119 of a final order granting a determination of need for the
120 nuclear power plant and electrical transmission lines and
121 facilities necessary thereto or for the integrated gasification
122 combined cycle power plant. The utility shall recover such costs
123 through the capacity cost recovery clause over a period equal to
124 the period during which the costs were incurred or 5 years,
125 whichever is greater. The unrecovered balance during the
126 recovery period will accrue interest at the utility's weighted
127 average cost of capital as reported in the commission's earnings
128 surveillance reporting requirement for the prior year. However,
129 if the utility elects not to complete construction of the
130 nuclear power plant, rather than being precluded from completing
131 such construction, the utility may not recover or retain any
132 rate of return. Any cost recovery after the date of the decision
133 not to complete construction of the plant may not include a rate
134 of return. A utility that elects not to complete construction
135 shall refund to its customers the costs recovered before the
136 date of the decision which are attributable to a recovery of a
137 rate of return.

138 (7) This section shall stand repealed on October 2, 2016,
139 unless reviewed and saved from repeal through reenactment by the
140 Legislature.

141 Section 2. The Florida Public Service Commission shall
142 submit a report by January 1, 2016, to the President of the
143 Senate and the Speaker of the House of Representatives
144 specifically describing any action taken by each public utility,
145 as defined in s. 366.02, Florida Statutes, to develop a nuclear

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146 power plant and obtain cost recovery under s. 366.93, Florida
147 Statutes. The report must include whether the public utility is
148 making continuous, good faith efforts to construct a nuclear
149 power plant and whether actual construction has begun. It is the
150 intent of the Legislature that this report be used in
151 determining whether to reenact s. 366.93, Florida Statutes, and
152 that the statute be reenacted only if the utility's progress
153 indicates that construction will be completed.

154 Section 3. This act shall take effect July 1, 2013.